

REFERENCE TITLE: child protective services

State of Arizona  
Senate  
Forty-ninth Legislature  
First Regular Session  
2009

# **SB 1445**

Introduced by  
Senator Melvin

AN ACT

AMENDING SECTIONS 8-512, 8-513 AND 8-514, ARIZONA REVISED STATUTES; RELATING TO CHILD PROTECTIVE SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 8-512, Arizona Revised Statutes, is amended to  
3 read:

4           8-512. Comprehensive medical and dental care: guidelines

5       A. The department shall provide comprehensive medical and dental care,  
6 as prescribed by rules of the department, for each child:

7           1. Placed in a foster home.

8           2. In the custody of the department and placed with a relative.

9           3. In the custody of the department and placed in a certified adoptive  
10 home before the entry of the final order of adoption.

11          4. In the custody of the department and in an independent living  
12 program as provided in section 8-521.

13          5. In the custody of a probation department and placed in foster care.  
14 The department shall not provide this care if the cost exceeds funds  
15 currently appropriated and available for that purpose.

16       B. The care may include, but is not limited to:

17           1. A program of regular health examinations and immunizations  
18 including as minimums:

19           (a) Vaccinations to prevent mumps, rubella, smallpox and polio.

20           (b) Tests for anemia, coccidioidomycosis and tuberculosis.

21           (c) Urinalysis, blood count and hemoglobin tests.

22           (d) Regular examinations for general health, hearing and vision,  
23 including providing corrective devices when needed.

24           2. Inpatient and outpatient hospital care.

25           3. Necessary services of physicians, surgeons, psychologists and  
26 psychiatrists.

27          4. Dental care consisting of at least oral examinations including  
28 diagnostic radiographs, oral prophylaxis and topical fluoride applications,  
29 restoration of permanent and primary teeth, pulp therapy, extraction when  
30 necessary, fixed space maintainers where needed and other services for relief  
31 of pain and infection.

32           5. Drug prescription service.

33       C. The facilities of any hospital or other institution within the  
34 state, public or private, may be employed by the foster parent, relative,  
35 certified adoptive parent, agency or division having responsibility for the  
36 care of the child.

37       D. For inpatient hospital admissions and outpatient hospital services  
38 on or after March 1, 1993, the department shall reimburse a hospital  
39 according to the tiered per diem rates and outpatient cost-to-charge ratios  
40 established by the Arizona health care cost containment system pursuant to  
41 section 36-2903.01, subsection H.

42           E. IF THE CHILD IS COVERED BY A PRIVATE INSURANCE PLAN WHEN THE CHILD  
43 IS PLACED IN OUT-OF-HOME CARE, THE DEPARTMENT SHALL COORDINATE PAYMENT FOR  
44 SERVICES BY THAT INSURANCE PLAN. THE PARENT OR GUARDIAN OF THE CHILD FROM  
45 WHOM THE CHILD IS REMOVED SHALL NOT CANCEL AN INSURANCE PLAN COVERAGE FOR THE

1 CHILD. THE DEPARTMENT MAY PROVIDE FOR PAYMENT THROUGH AN INSURANCE PLAN,  
2 HOSPITAL SERVICE PLAN, MEDICAL SERVICE PLAN OR ANY OTHER HEALTH SERVICE PLAN  
3 AUTHORIZED TO DO BUSINESS IN THIS STATE, A FISCAL INTERMEDIARY OR A  
4 COMBINATION OF THESE PLANS OR METHODS. THIS STATE IS NOT LIABLE FOR, AND THE  
5 DEPARTMENT SHALL NOT PAY TO ANY PLAN OR INTERMEDIARY, ANY PORTION OF THE COST  
6 OF COMPREHENSIVE MEDICAL AND DENTAL CARE IN EXCESS OF MONIES APPROPRIATED AND  
7 AVAILABLE FOR THAT PURPOSE AT THE TIME THE PLAN OR INTERMEDIARY INCURS THE  
8 EXPENSE FOR THE CARE.

9 ~~F.~~ F. The department shall use the Arizona health care cost  
10 containment system rates as identified in subsection D of this section for  
11 any child eligible for services under this section.

12 ~~F.~~ G. A hospital bill is considered received for purposes of  
13 subsection ~~H~~ I of this section upon initial receipt of the legible,  
14 error-free claim form by the department if the claim includes the following  
15 error-free documentation in legible form:

- 16 1. An admission face sheet.
- 17 2. An itemized statement.
- 18 3. An admission history and physical.
- 19 4. A discharge summary or an interim summary if the claim is split.
- 20 5. An emergency record, if admission was through the emergency room.
- 21 6. Operative reports, if applicable.
- 22 7. A labor and delivery room report, if applicable.

23 ~~G.~~ H. The department shall require that the hospital pursue other  
24 third party payors before submitting a claim to the department. Payment  
25 received by a hospital from the department is considered payment by the  
26 department of the department's liability for the hospital bill. A hospital  
27 may collect any unpaid portion of its bill from other third party payors or  
28 in situations covered by title 33, chapter 7, article 3.

29 ~~H.~~ I. For inpatient hospital admissions and outpatient hospital  
30 services rendered on and after October 1, 1997, the department shall pay a  
31 hospital's rate established according to this section subject to the  
32 following:

- 33 1. If the hospital's bill is paid within thirty days of the date the  
34 bill was received, the department shall pay ninety-nine per cent of the rate.
- 35 2. If the hospital's bill is paid after thirty days but within sixty  
36 days of the date the bill was received, the department shall pay one hundred  
37 per cent of the rate.

38 3. If the hospital's bill is paid any time after sixty days of the  
39 date the bill was received, the department shall pay one hundred per cent of  
40 the rate plus a fee of one per cent per month for each month or portion of a  
41 month following the sixtieth day of receipt of the bill until the date of  
42 payment.

43 ~~I.~~ J. For medical services other than those for which a rate has been  
44 established pursuant to section 36-2903.01, subsection H, the department

1 shall pay according to the Arizona health care cost containment system capped  
2 fee-for-service schedule adopted pursuant to section 36-2904, subsection K.

3 ~~J.~~ K. For any hospital or medical claims not covered under subsection  
4 D or ~~I~~ J of this section, the department shall establish and adopt a  
5 schedule setting out maximum allowable fees that the department deems  
6 reasonable for such services after appropriate study and analysis of usual  
7 and customary fees charged by providers. The department shall not pay to any  
8 plan or intermediary that portion of the cost of any service provided that  
9 exceeds allowable charges prescribed by the department pursuant to this  
10 subsection.

11 ~~K.~~ L. The department shall not pay claims for services pursuant to  
12 this section that are submitted more than one hundred eighty days after the  
13 date of the service for which the payment is claimed.

14 ~~L. The department may provide for payment through an insurance plan,  
15 hospital service plan, medical service plan, or any other health service plan  
16 authorized to do business in this state, fiscal intermediary or a combination  
17 of such plans or methods. The state shall not be liable for and the  
18 department shall not pay to any plan or intermediary any portion of the cost  
19 of comprehensive medical and dental care in excess of funds appropriated and  
20 available for such purpose at the time the plan or intermediary incurs the  
21 expense for such care.~~

22 M. The total amount of state monies that may be spent in any fiscal  
23 year by the department for comprehensive medical and dental care shall not  
24 exceed the amount appropriated or authorized by section 35-173 for that  
25 purpose. This section shall not be construed to impose a duty on an officer,  
26 agent or employee of this state to discharge a responsibility or to create  
27 any right in a person or group if the discharge or right would require an  
28 expenditure of state monies in excess of the expenditure authorized by  
29 legislative appropriation for that specific purpose.

30 Sec. 2. Section 8-513, Arizona Revised Statutes, is amended to read:

31 **8-513. Participation in activities**

32 A. A child may participate in activities and functions generally  
33 accepted as usual and normal for children of the child's age group if  
34 permission is granted as follows:

35 1. When the activity by law requires a license, the agency or division  
36 that placed the child may give permission on request of the foster parent.

37 2. When the activity includes the child leaving the jurisdiction of  
38 the court for a period not to exceed thirty days, the agency or division that  
39 placed the child may give permission on request of the foster parent.

40 3. When the activity is one which is associated with a school or  
41 organization not prohibited by rule of the division, the foster parents of  
42 the child may give permission.

43 B. The state shall indemnify and hold harmless the agency or foster  
44 parents for liability that may be incurred or alleged as a result of giving

1 permission pursuant to subsection A if it is reasonably and prudently given.  
2 The state shall provide the defense of any action alleging ~~sueh~~ liability.

3 C. A child placed in foster care has the right to maintain contact  
4 with friends, siblings and other relatives unless the court has determined  
5 that contact is not in the child's best interests as determined pursuant to a  
6 court hearing.

7 D. THE AGENCY OR DIVISION SHALL NOT REQUIRE OR RECOMMEND TO THE COURT  
8 PARTICIPATION IN ACTIVITIES PURSUANT TO THIS SECTION AS A CONDITION FOR  
9 REUNIFICATION.

10 Sec. 3. Section 8-514, Arizona Revised Statutes, is amended to read:  
11 8-514. Placement in foster homes

12 A. Subject to the provisions of section 8-514.01, the division or a  
13 licensed child welfare agency if so authorized in its license,~~—~~ may place a  
14 child in a licensed foster home for care or for adoption.

15 B. The department shall place a child in the least restrictive type of  
16 placement available, consistent with the needs of the child. The order for  
17 placement preference is as follows:

- 18 1. With a parent.
- 19 2. With a grandparent.
- 20 3. In kinship care with another member of the child's extended family,  
21 including a person who has a significant relationship with the child.
- 22 4. In licensed family foster care.
- 23 5. In therapeutic foster care.
- 24 6. In a group home.
- 25 7. In a residential treatment facility.

26 C. Notwithstanding subsection B of this section, the order for  
27 placement preference of a native American child is as follows:

- 28 1. With a member of the child's extended family.
- 29 2. In a licensed family foster home approved or specified by the  
30 child's tribe.
- 31 3. In an Indian foster home licensed or approved by an authorized  
32 non-Indian licensing authority.

33 4. In an institution approved by the Indian tribe or operated by an  
34 Indian organization that has a program suitable to meet the Indian child's  
35 needs pursuant to 25 United States Code chapter 21.

36 D. THE PARENT OR GUARDIAN OF THE CHILD AT THE TIME OF REMOVAL SHALL  
37 DECIDE THE PLACEMENT OF THE CHILD UNLESS THE DEPARTMENT DETERMINES THAT THE  
38 PLACEMENT IS NOT SAFE OR PRESENTS A THREAT TO THE CHILD. IF THE DEPARTMENT  
39 DETERMINES THAT THE PLACEMENT RECOMMENDED BY THE PARENT OR GUARDIAN IS NOT  
40 SAFE OR PRESENTS A THREAT TO THE CHILD, THE DEPARTMENT SHALL PROVIDE WRITTEN  
41 NOTIFICATION TO THE PARENT OR GUARDIAN AND THE PERSON RECOMMENDED FOR  
42 PLACEMENT WITHIN TWO BUSINESS DAYS. THE NOTICE SHALL INCLUDE THE SPECIFIC  
43 REASON FOR DENIAL, THE PARENT OR GUARDIAN'S RIGHT TO APPEAL AND THE PROCESS  
44 FOR REVIEWING THE DECISION. THE PARENT OR GUARDIAN AND THE DEPARTMENT SHALL

1   AGREE TO A PLACEMENT THAT IS SAFE AND GEOGRAPHICALLY REASONABLE FOR THE  
2 PURPOSE OF REUNIFICATION.

3   E. IF THE CHILD IS ATTENDING MIDDLE SCHOOL OR HIGH SCHOOL, THE  
4 DEPARTMENT SHALL PLACE THE CHILD IN THE SCHOOL DISTRICT OF THE PARENT OR  
5 GUARDIAN UNLESS THE DEPARTMENT DETERMINES THAT PLACEMENT IN THAT SCHOOL  
6 DISTRICT IS NOT IN THE BEST INTEREST OF THE CHILD BECAUSE OF EVIDENCE OF A  
7 SAFETY RISK TO THE CHILD. THE PLACEMENT SHALL PROVIDE TRANSPORTATION OR THE  
8 CHILD SHALL USE PUBLIC TRANSPORTATION TO THE SCHOOL. IF THE CHILD IS  
9 ATTENDING ELEMENTARY SCHOOL, THE DEPARTMENT SHALL PLACE THE CHILD IN THE  
10 SCHOOL DISTRICT OF THE PARENT OR GUARDIAN UNLESS THE DEPARTMENT DETERMINES  
11 THAT PLACEMENT IN THAT SCHOOL DISTRICT IS NOT IN THE BEST INTEREST OF THE  
12 CHILD BECAUSE OF EVIDENCE OF A SAFETY RISK TO THE CHILD OR LACK OF  
13 TRANSPORTATION. THE DEPARTMENT SHALL PROVIDE WRITTEN NOTIFICATION TO THE  
14 PARENT OR GUARDIAN OF THE CHILD WITHIN TWO BUSINESS DAYS. THE NOTICE SHALL  
15 INCLUDE THE SPECIFIC REASON FOR CHANGE OF SCHOOL DISTRICT, THE PARENT OR  
16 GUARDIAN'S RIGHT TO APPEAL AND THE PROCESS FOR REVIEWING THE DECISION. THE  
17 PARENT OR GUARDIAN AND THE DEPARTMENT SHALL JOINTLY SEEK AN ALTERNATIVE  
18 SCHOOL BASED ON THE PARENT'S OR GUARDIAN'S DECISION.

19   D. F. At the time of placement there shall be presented to the foster  
20 parents, by the agency or division placing the child, a written summary of  
21 known, unprivileged, information regarding the child, including but not  
22 limited to:

- 23       1. Demographic information.
- 24       2. Type of custody and previous placement.
- 25       3. Pertinent family information including but not limited to the names  
26 of family members who, by court order, may not visit the child.
- 27       4. Known or available medical history including but not limited to:  
28           (a) Allergies.  
29           (b) Immunizations.  
30           (c) Childhood diseases.  
31           (d) Physical handicaps.  
32           (e) Other idiosyncrasies.  
33           (f) The child's last doctor, if known.
- 34       5. A summary of the child's history of adjudication on acts of  
35 delinquency, as may be public record and available in the file of the clerk  
36 of the superior court.

37   E. G. The responsibility of the agency or the division for a child  
38 placed in a foster home shall be defined in writing and accepted by the  
39 person receiving the child. The agency or division shall make available to  
40 the foster parents a method of acquiring emergency information that may be  
41 necessary to deal with situations that may arise pursuant to their  
42 responsibilities as foster parents.

43   F. H. Every foster home shall maintain a record of the children  
44 received, which shall include facts in regard to the children and their care  
45 and shall be in the form and kept in the manner prescribed by the division.